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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/961,374 | 09/25/2001 | Shin-Ichi Kanno | 214406US2SRD | 5919 |

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
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ALEXANDRIA, VA 22314

| EXAMINER | |
|---|---|
| SIMITOSKI, MICHAEL J | |
| **ART UNIT** | **PAPER NUMBER** |
| 2134 | |

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/961,374 | KANNO, SHIN-ICHI | |
| | Examiner | Art Unit | |
| | Michael J. Simitoski | 2134 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *19 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *2,4,11 and 13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2,4,11 and 13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 September 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

1. The response of 12/19/2005 was received and considered.

2. Claims 2, 4, 11 & 13 are pending.

### *Response to Arguments*

3. Applicant's arguments with respect to claims 2, 4, 11 & 13 have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant's response (p. 6) argues that "the processing required for managing expiration times of contents as disclosed by Li is clearly different from that required for determining the validity of a permission ticket, as recited in the claimed invention." However, the claims require that the server specify a time period to control an access using the permission ticket. Li discloses that in a cache mirroring system, it is useful to assign an expiration time for the data (which is clearly a time period to control an access). Therefore, any processing required for managing expiration which allegedly distinguishes the claimed invention from the art of record must be recited explicitly in the claims for consideration.

5. Applicant's response (p. 7) argues that "Certainly, the outstanding Office Action fails to cite any specific teachings in any of the references to provide motivation in support of the combination of Brendel and Li." However, as cited in the Office Action and cited by applicant in the outstanding response (p. 6, ¶2), Li assigns an expiration time so that mirrored content does not permanently occupy memory in the mirror site.

### *Claim Rejections - 35 USC § 112*

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2, 4, 11 & 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 2 & 11, "the ticket used before that transmission" lacks proper antecedent basis as the ticket is not previously used in the claim.

Regarding claims 2 & 11, it is unclear if the limitation "deny the client ..." is a separate step from "transmitting ... if the client possesses the permission ticket".

Regarding claims 2 & 11, the limitation "deny the client" is vague and indefinite.

Regarding claims 2 & 11, it is unclear how the server can "deny the client if the client accesses ..." because the client has already accessed the server.

## *Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 2 & 11 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent 5,774,660 to Brendel et al. (**Brendel**) in view of U.S. Patent 6,928,545 to Litai et al. (**Litai**). Brendel discloses a plurality of content servers/server farm each of which stores the same content

(col. 2, lines 53-67) and a reception server/balancer having a first device configured to select one of the content servers based on load conditions thereof (col. 6, lines 20-58), a second device/balancer configured to receive a first access request relating to the order/request from the client (col. 6, lines 43-46), and a third device/balancer configured to issue a permission ticket/HTTP redirect message to the client (col. 21, lines 2-7), wherein the content servers/server farm are unconditional and transmit the content to the client in response to a second access request (reissued request) from the client using the permission ticket/HTTP redirect message (col. 21, lines 2-7), wherein the permission ticket/HTTP redirect message locates said selected one of content servers on the network (col. 21, lines 2-7). Brendel lacks disclosure that the content servers transmit the content to the client if the client possesses the permission ticket to access the content servers, register information representing that the permission ticket used before that transmission is invalid, and deny the client if the client accesses the content servers but does not possess a permission ticket or said information is registered in the content servers. However, Litai teaches a system where a user requests data (col. 3, lines 39-43), the client is assigned a ticket (col. 4, lines 11-13) where the user is redirected to a content server (col. 4, lines 11-18) where the ticket is validated for access (col. 4, lines 11-18) to enable data mirroring using servers not under direct control of the data owner (col. 1, lines 28-36). Litai further teaches that the server removes the ticket from a ticket pool to allow limited access to the content (col. 4, lines 28-31). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Brendel so that the content servers transmit the content to the client if the client possesses the permission ticket to access the content servers, register information representing that the permission ticket used before that transmission is invalid, and

deny the client if the client accesses the content servers but does not possess a permission ticket or said information is registered in the content servers. One of ordinary skill in the art would have been motivated to perform such a modification to enable mirroring of content while maintaining access control over the content, as taught by Litai (col. 1, lines 28-36, col. 3, lines 39-43 & col. 4, lines 11-31).

10. Claims 4 & 13 are rejected under 35 U.S.C. 103(a) as being obvious over **Brendel** and **Litai**, as applied to claims 2 & 11 above, in further view of U.S. Patent 6,799,214 to **Li**. Brendel lacks specifying a time period to control an access using the permission ticket from the client. However, Li teaches that content mirroring sites should assign expiration times to mirrored content to ensure the content does not permanently occupy memory and to provide fixed time periods during each day (col. 12, line 66 – col. 13, line 8). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Brendel to specify a time period/expiration to control an access using the permission ticket from the client. One of ordinary skill in the art would have been motivated to perform such a modification to ensure the content does not permanently occupy memory and to provide fixed time periods during each day, as taught by Li (col. 12, line 66 – col. 13, line 8).

## *Conclusion*

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Simitoski whose telephone number is (571) 272-3841. The examiner can normally be reached on Monday - Thursday, 6:45 a.m. - 4:15 p.m.. The examiner can also be reached on alternate Fridays from 6:45 a.m. – 3:15 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached at (571) 272-3838.

**Any response to this action should be mailed to:**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
**Or faxed to:**
(571) 273-8300
(for formal communications intended for entry)
**Or:**
(571) 273-3841 (Examiner's fax, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJS
February 14, 2006

GILBERTO BARRON JR
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